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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/078,956	05/14/98	VON OEPEN	R 262

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QM31/0525

EXAMINER	
JACKSON, S	
ART UNIT	PAPER NUMBER
3738	

DATE MAILED: 05/25/99

**Please find below a communication from the EXAMINER in charge of this application.**

Commissioner of Patents

# Office Action Summary

Application No.  
09/078,956

Applicant(s)  
Von Oepen

Examiner  
Suzette Jackson

Group Art Unit  
3738



☒ Responsive to communication(s) filed on May 14, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-13 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-13 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on May 14, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3738

### DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “...*stretchable hose piece which is pulled onto the balloon portion.*”, indicated in claim 7 and “*three coaxial hoses arranged so that two inwardly located hoses form hollow chambers...*” indicated in claim 8, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### *Specification*

2. The Specification is objected to because of the following informalities: On page 8, line 1, Figure 3 does not illustrate 3 examples of stenosis as indicated. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

Art Unit: 3738

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over JOMED IMPLANTABLE/ **DE 29701758 U1** in view of Jang USPN 5,304,132. **DE 29701758 U1** discloses the invention as claimed comprising: a multicellular stent made of metal which is implantable in a body vessel which is radially expandable and formed as a hollow cylindrical element with at least one section with enlarged radial apertures (15) which is pre-mountable onto a balloon catheter; however **DE 29701758 U1** does not disclose specifics regarding the balloon catheter. Jang teaches a steerable guidewire-type catheter which has a guidewire lumen extending the entire length of the catheter, from the proximal end to the distal end (col. 9 , lines 41-45); with a first lumen (54) in the outer wall of the catheter and a second lumen (66) along the longitudinal portion of the catheter where a stent is pullable along the guide wires out of the vessel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the stent of **DE 29701758 U1** and mount it on the balloon catheter of Jang so that the stent's larger opening would allow for further blood flow at the bifurcated portion of the vessel and to treat non-uniformity of the vessel at the ostium which may display changes in diameter or curvature.

Art Unit: 3738

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Richter 5,807,404; Tower 5,868,783; Alt 5,855,600; Richter et al. 5,836,964; Jayaraman 5,893,887; Hillstead 4,856,516; Sahota 5,800,393; and Dereume et al. 5,723,004 all show other closely related prosthesis.

6. Any inquiry concerning this communication or earlier communication regarding this application should be directed to examiner Suzette Jackson at (703) 308-6516. If you are unable to reach me, please contact my supervisor, Mickey Yu, at (703) 308-2672. In a case requiring immediate assistance, please call (703) 308-0858 to reach the main operator for Sector 3700.

*S.J.J.*

SJJ

20 May 1999

*David H. Willse*

David H. Willse  
Primary Examiner